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WATER PERMIT NO. 1864-1

Name of Applicant: Hay Creek Ranch

Address: 21765 Penny Lane, Nemo SD

Phone: 605 578-1142

Amount of Water Claimed: 0.067 cfs (30 gpm)

Total Acres: NA

Source of Water Supply: groundwater (one well)

Water to be used for: commercial

County: Lawrence

Type of Waste Disposal System:

Location: 10 miles southeast of Deadwood

PRIORITY Date Received: 5-17-06

Application/License Fee: \$100

Corrected Application Received: 6-23-06

Period of Annual Use: April 1 – December 31

Remarks: for a campground

Diversion Point: NW ¼ SE ¼ Sec 3-T3N-R4E

Land to be Irrigated: NA

Depth of Well: 120 feet deep

Well Driller: : Aman Drilling

Remarks:

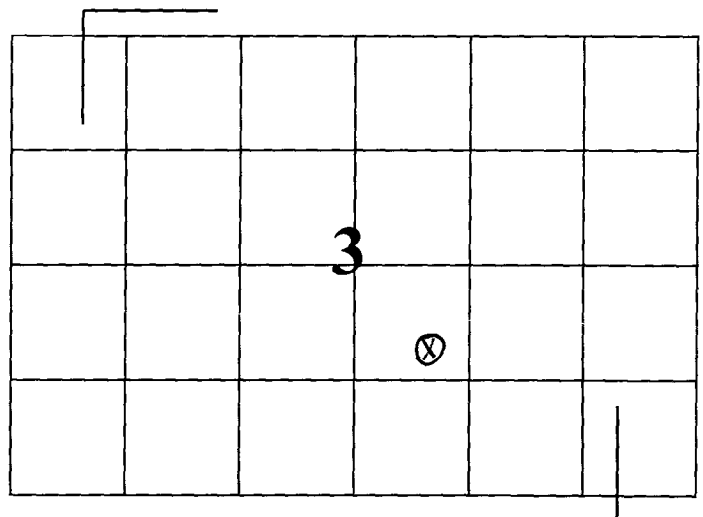
Type of Map: aerial

Prepared by: Justi Swan, NRCS

Reviewed and the Number Assigned on: 6-26-06

By: Karen Schlaak

Notice of Hearing - date to intervene: _____



FORM 2: Application for uses other than irrigation
(type or print)

Mail to: Water Rights Program Joe Foss Building 523 E. Capitol Pierre, SD 57501-3181 (605) 773-3352	No. <u>1864-1</u>	(office use only) Hydrologic Unit <u>10120202</u>
	Basin <u>Belle Fourche River</u>	
	Newspaper <u>Lawrence Co. Journal Deadwood</u>	
	<u>605-578-3305</u>	<u>SD</u>

Application For Permit To Appropriate Water Within The State Of South Dakota

Check use(s) of water:

☐ Municipal ☐ Suburban Housing ☐ Recreational ☐ Institutional
☐ Rural Water System ☒ Commercial ☐ Fish & Wildlife ☐ Geothermal Heat
☐ Domestic (over 18 gpm) ☐ Industrial ☐ Other Single Family Dwelling

Type of Application: ☒ New ☐ Vested Right (Use predates Mar 2, 1955) ☐ Future Use Reservation
(check one) ☐ Place to Beneficial Use Water Reserved by Future Use Permit No. _____
☐ Amendment/Correction to Permit No. _____

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.) supply water
To campground on our property

1. Name of Applicant Hag Creek Ranch Phone 605-578-1142
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 21765 Penn Lane Nemo State SD 57759
(Street, RR, or Box and City) (Zip Code)

2. Amount of water claimed 0.067*CFS or 30 **GPM ***AF
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Well

4. Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) 1 well sec 3
Trp 4E R 3N (NW1/4SE1/4) Sec 3 T3N R4E
County Lawrence

5. County or counties where water will be used Lawrence

6. Annual period during which water is to be used April 1 - Dec 31 Jan 1 - Dec 31 domestic
April 1 - Dec 31 commercial

7. Give a description of the project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

see attached

STATE OF SOUTH DAKOTA) SS
County of Lawrence

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach map and any other technical information. (see instructions)

I, Doug Lindgren, the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.

Applicant's signature Doug Lindgren

Subscribed and sworn to before me this 15th day of May 20 06

Barbara Smith
Notary Public signature

**SOUTH DAKOTA
WATER PERMIT NO. 1864-1**

Date of first receipt of application May 17, 2006.

Date of return to applicant for corrections, amendments or changes May 30, 2007.

Date of receipt of corrected application June 23, 2007.

The Water Management Board approved Water Permit No. 1864-1 on March 7, 2007 for Hay Creek Ranch, c/o Doug Lindgren, 21765 Penny Lane, Nemo SD 57759 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

1. Water Permit No. 1864-1 appropriates 0.067 cubic feet of water per second from one well completed into the Precambrian aged Crystalline Rock (120 feet deep) located in Lot 2 HES 417 (NW ¼ SE ¼) Section 3-T3N-R4E.
2. The water appropriated shall be used for the purpose of commercial and domestic use and may not exceed the amount of water needed for beneficial use.
3. The water is to be used during the following described annual period: April 1 – December 31 (commercial) and January 1 – December 31 (domestic).
4. The date from which applicant may claim right is May 17, 2006.
5. One-fifth of the construction is to be completed on or before September 7, 2009.
6. All construction is to be completed on or before March 7, 2012.
7. Water is to be put to beneficial use on or before March 7, 2016.
8. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATION

The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

WATER MANAGEMENT BOARD

By: Garland Erbele

Garland Erbele, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

APR 30 2007

date



Supplemental Information

(type or print in ink)

1. Well Information - Proposed Construction

- a) Drill Hole Diameter 9" Depth 120
- b) Casing Type _____ Diameter _____ Thickness _____
- c) Screen Type _____ Diameter see attachment Thickness _____
- d) Gravel Pack _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material _____
- f) Depth to Water (ground surface to water level) _____
- g) Distance to nearest existing domestic well:

On applicants property NA

On property owned by others 3/4 mile

2. Wastewater Disposal System Information

- a) Type of System (i.e. septic tank, drain field) see attachment
- b) System Capacity (gallons) _____ Year Constructed 2005
- c) Connected to the City of _____ Sanitary System _____

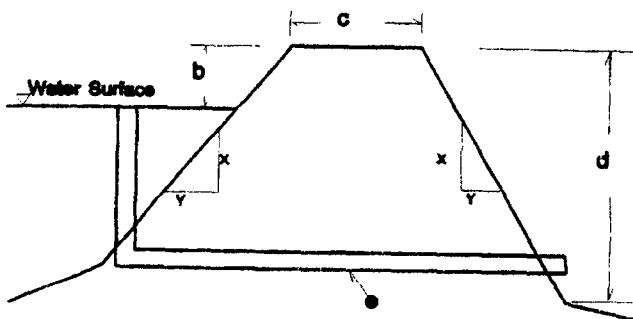
3. Dugout Information

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

4. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam, please give their name and address:



- b) Freeboard _____
- c) Crest Width _____
Crest Length _____
- d) Height _____
- e) Primary Outlet Capacity _____
If pipe, diameter _____
- f) Secondary Spillway Capacity _____
Spillway Width _____
- g) X & Y Slope _____
Upstream _____
Downstream _____
- h) Surface Area of Impoundment _____
- i) Storage _____ Acre Feet
- j) Drainage Area Above Dam _____ Acres

33 4N 4E

34 4N 4E

35 4N 4E

NW 1/4 of SE 1/4
Sec. 3 T003N R004E

Lawrence Hansen
Soil Conservationist
6/21/06

RECEIVED
JUN 21 2006
NORTH DAKOTA
DEPARTMENT OF
AGRICULTURE

3 3N 4E

2 3N 4E

4 3N 4E

9 3N 4E

10 3N 4E

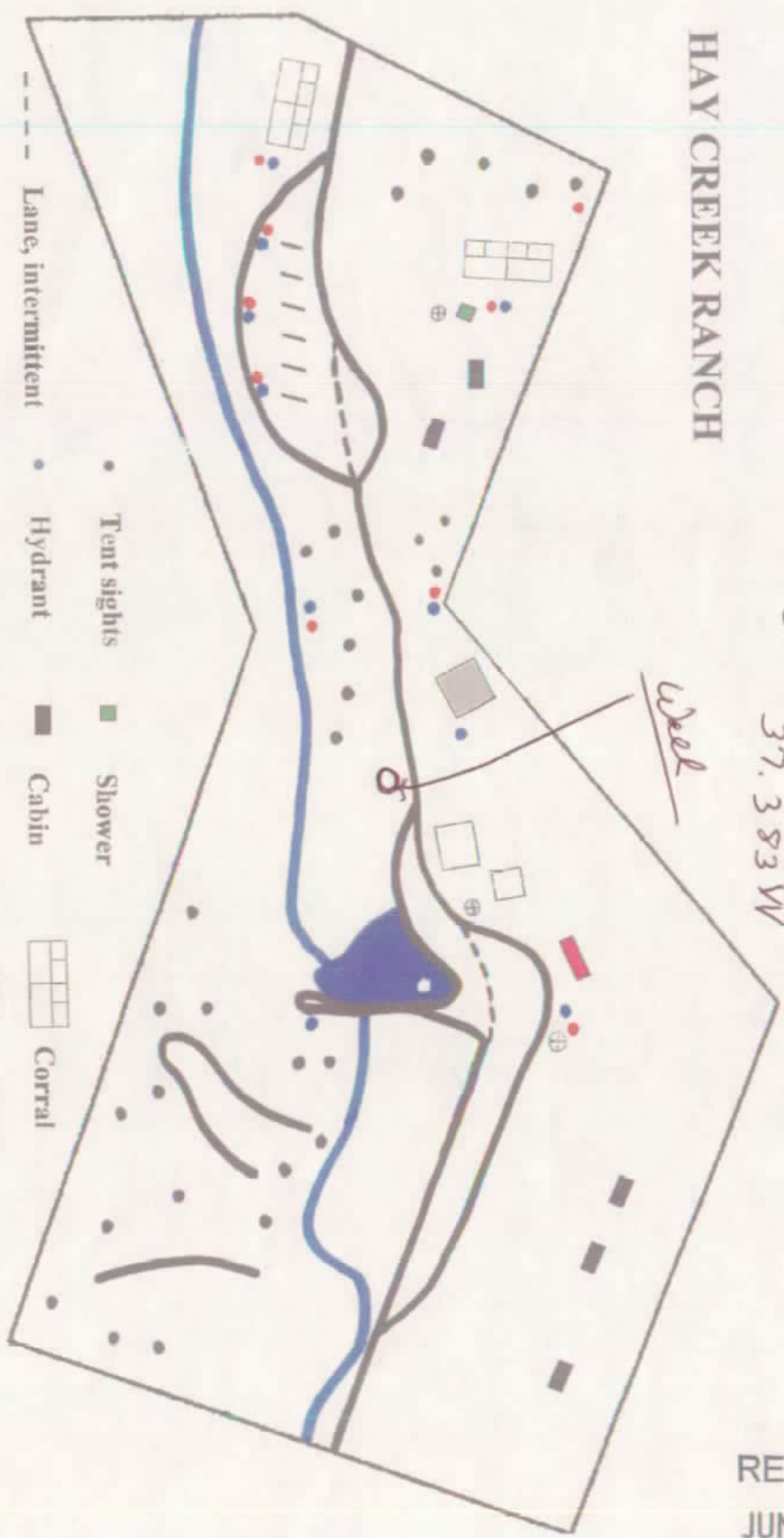
11 3N 4E

GPS Coordinates

44° 14.810 N
103° 37.383 W

HAY CREEK RANCH

Well



- Tent sights
- Shower
- Hydrant
- Cabin
- ⊕ Septic tank
- Office
- //// RV parking
- Electric
- House and Garage
- Corral
- Lane, intermittent
- Lane
- Creek and pond

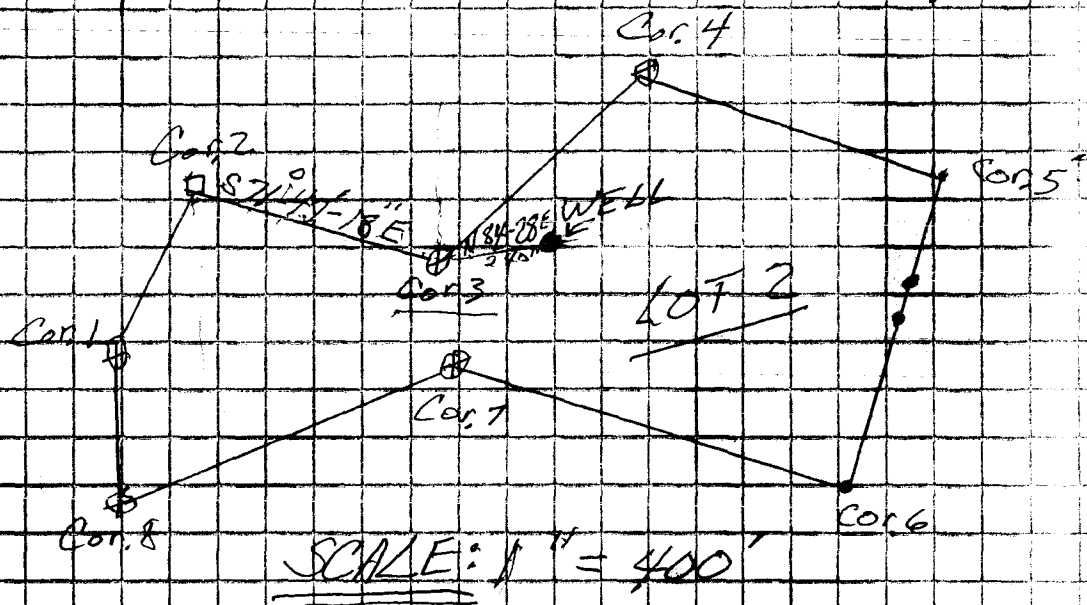
Justi Quam, Sturgis, SD

Soil Conservation Technician, NRCS

5/15/06

RECEIVED
JUN 23 2006
WATER RIGHTS PROGRAM

Lawrence County
 Lot 2, H.E. 417
 Sec 3, T3N, R4E, B.H. M. of SD



- @ Cor. 3, $\angle$ From Cor. 2 to Well = $156^{\circ}10'11''$
- Bearing to Well = $N 84^{\circ}28'E$ (From Cor. 3)
- Distance from Cor. 3 to Well = 240.0 Ft.

Justin Furr 5/26/06
 NRCS Soil Conservation Technician
 Strasburg, SD

RECEIVED

JUN 23 2006

WATER RIGHTS
 PROGRAM

SOUTH DAKOTA WATER WELL COMPLETION REPORT

87-82

Location _____ 1/4 _____ 1/4 Sec 3 Twp 4E Rg 3N

County

North

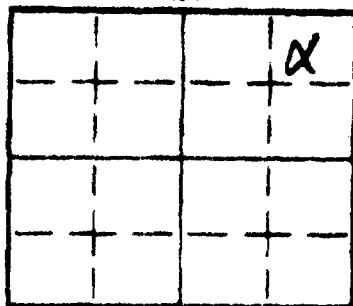
Lawrence

Please mark well location with an "X"

W

E

Well Completion Date

7-5-5

LOCATION:

Distance from nearest potential pollution source (septic tank) abandoned well, feed lot, etc. 250 ft. from _____ (identify source)

PROPOSED USE:

☒ Domestic/Stock ☐ Municipal ☐ Business ☐ Test Holes
☐ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

Air RotaryCASING DATA: ☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>160</u> LB/FT	<u>6"</u> IN	<u>0</u> FT	<u>20</u> FT	<u>9"</u> IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Portland</u>	<u>3</u>	<u>750</u> lb/gal	<u>0</u> ft	<u>20</u> ft
_____	_____	_____ lb/gal	_____ ft	_____ ft

Describe grouting procedure _____

SCREEN: ☐ Perforated pipe ☐ Manufactured

Diameter _____ IN Length _____ FEET

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

☒ YES, How _____

_____ NO, Why Not? _____

Laboratory sent to for water quality analysis _____

Well Owner Doug Lindgren

Business Name: _____

Address 21765 Penny Ln.
Demo S.D. 57759

WELL LOG:

DEPTH

FORMATION

FROM

TO

<u>Black Shale</u>	<u>0</u>	<u>20</u>
<u>Black Shist.</u>	<u>20</u>	<u>120</u>

STATIC WATER LEVEL 50 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ PumpedDescribe: Air Assisted☒ Bailed☐ Other _____

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

H. & Water at 30, 60, 85, 115
Well producing 30 gpm.This well was drilled under license # 638

And this report is true and accurate.

Drilling firm Arman Drilling

Signature of Licensee/Representative:

Signature of Well Owner or Equitable Property Holder:

Doug LindgrenDate 7-12-05

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date May 30, 20 06

RECEIVED OF Hay Creek Ranch Inc, 21765 Penny Lane, Nemo SD 57759

The following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
Fee for Application for Permit No. _____ to Appropriate Water for Future use		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____	50	00
Fee for Filing Transfer Form _____		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	

No.

02473

By

Harland Erbe

Chief Engineer

SEWER INSPECTION CERTIFICATE

I. NAME OF OWNER Tim Peterson Hay Creek Ranch

II. LOCATION OF SYSTEM

A. ADDRESS

21765 PENNY Lane

III. TYPE OF INDIVIDUAL SEWAGE DISPOSAL SYSTEM

EAST Side / Split System
Black Water = 3 trench system using 67 Quick 4 Chamber
Gray Water = 40' SOAK Trench

A. INITIAL DISPOSAL

1. TANK CAPACITY 2250 GALLONS MINIMUM Gray
1500 Black
2. TANK MATERIAL JD precast

B. FINAL DISPOSAL

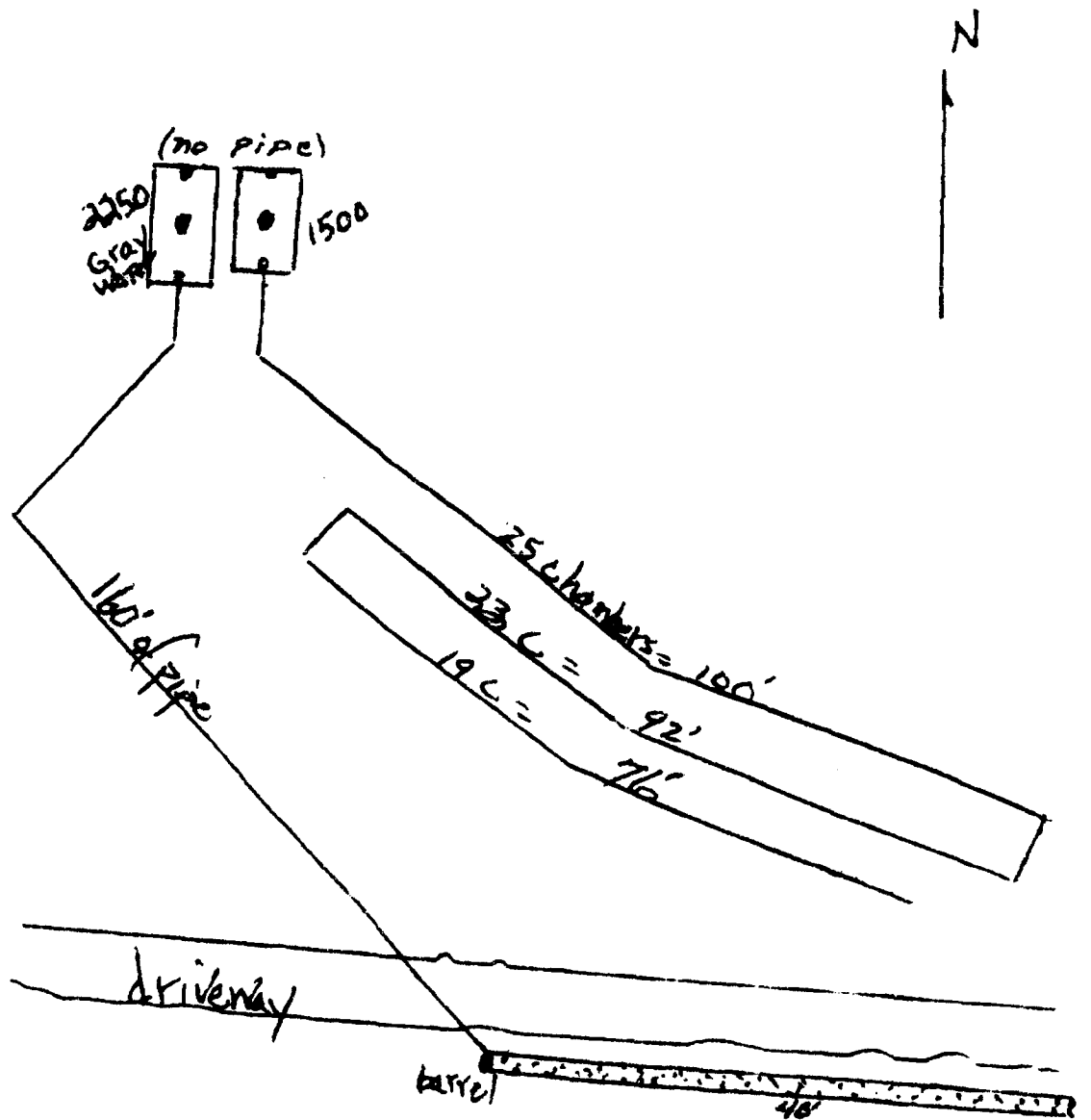
1. ABSORPTION AREA 804 SQUARE FEET MINIMUM
a. Number of trenches 3
b. Distance between trenches _____
c. Trench or bed width 3'
d. Trench or bed length 268'
e. Field depth 24" to 36"
f. Gravel depth 24" (Gray Water)
g. Gravel amount _____
h. Barrier material _____

C. DISTANCE FROM:

1. Property lines N/A
2. Dwelling N/A
3. Public right of way NONE
4. Water course 100' Gray water
5. Well NOT CLOSE
6. Groundwater _____
7. Bedrock _____

DATE 10-27-5 INSPECTED BY Loan Marshall

CONTRACTOR Mike Anderson



SEWER INSPECTION CERTIFICATE

I. NAME OF OWNER HAY Creek Ranch (Doug Lindgren)

II. LOCATION OF SYSTEM

A. ADDRESS

21765 PENNY LANE, NEMO
Lot 2 of HES 417

III. TYPE OF INDIVIDUAL SEWAGE DISPOSAL SYSTEM WEST Campground
SPLIT SYSTEM: Black Water = 36 quick 4 chambers in 2 trench:
Gray Water = 48 soak trench w/irrigation
Looks Good! barrel

A. INITIAL DISPOSAL

1. TANK CAPACITY 1500 GALLONS MINIMUM

2. TANK MATERIAL J&D precast

B. FINAL DISPOSAL

1. ABSORPTION AREA 432 SQUARE FEET MINIMUM

a. Number of trenches 2

e. Field depth 24"

b. Distance between trenches 9'

f. Gravel depth 0

c. Trench or box width 3'

g. Gravel amount 0

d. Trench or box length 146'

h. Barrier material 0

73' trench
23' lid to 1

C. DISTANCE FROM:

1. Property lines 0

5. Well 0

2. Dwelling 0

6. Groundwater 0

3. Public right of way 0

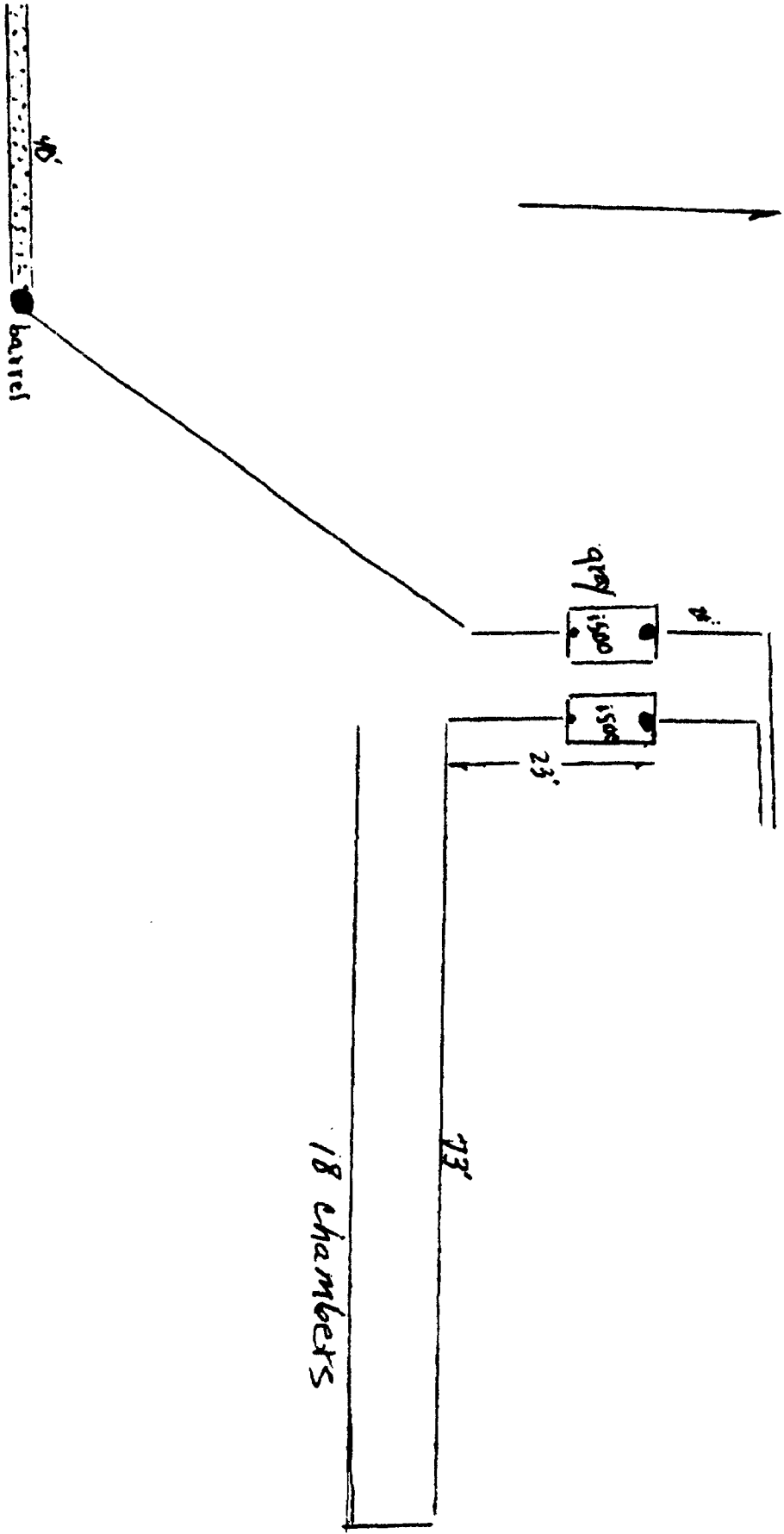
7. Bedrock 0

4. Water course 0

DATE 10-25-5 INSPECTED BY Roger Marshall

CONTRACTOR Mike Anderson

N





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

May 17, 2006

Hay Creek Ranch
Doug Lindgren
21765 Penny Lane
Nemo SD 57759

RECEIVED

MAY 30 2006

**WATER RIGHTS
PROGRAM**

Dear Mr. Lindgren:

Thank you for submitting the *Application for a Permit to Appropriate Water* for commercial use. In order to complete the application the following is required.

- Enclosed is the map submitted with the application. The map needs to reference the location of the well in relation to a government section corner or quarter corner. Our suggestion would be to obtain an aerial photo map from the NRCS office. Mark the location of the well and have it signed by the same person that signed the enclosed map.
- Also, enclosed is the \$150.00 application/license filing fee. Based on the 30 gallons per minute claimed on the application, the application/license filing fee will be \$100.00.

If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosures



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

May 30, 2006

Hay Creek Ranch
Doug Lindgren
21765 Penny Lane
Nemo SD 57759

RECEIVED

JUN 23 2006

WATER RIGHTS
PROGRAM

Dear Mr. Lindgren:

Enclosed are the maps submitted with the *Application for a Permit to Appropriate Water*. As stated in my first letter the map needs to reference a government section corner or quarter corner.

In the public notice advertisement which we prepare for the local newspaper, we list the legal description of the well location as the quarter-quarter, section, township, range (for example SW ¼ SE ¼ Sec 22-T2S-R2E). From the maps submitted, we cannot determine where Lot 2 of Section 3-T3N-R4E is located.

The receipt for the application/license fee is on file with your application. If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352
karen.schlaak@state.sd.us

enclosures

Karen

Hop this works for you.

Doug



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

**RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 1864-1, Hay Creek Ranch**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Water Permit Application No. 1864-1, Hay Creek Ranch, c/o Doug Lindgren, 21765 Penny Lane, Nemo SD 57759..

The Chief Engineer is recommending APPROVAL of Application No. 1864-1 because 1) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use and 4) it is in the public interest with the following qualification:

The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.

See report on application for additional information.

Garland Erbele, Chief Engineer
August 25, 2006

WATER PERMIT APPLICATION NO. 1864-1
HAY CREEK RANCH
AUGUST 22, 2006

Water Permit Application No 1864-1 proposes to appropriate 0.067 cubic feet of water per second (30 gallons per minute) from one well completed into the Precambrian aged Crystalline Rock aquifer 120 feet deep, located in Lot 2, HES 417 (NW¼ SE¼) Sec. 3, T3N-R4E, in Lawrence County. The water is for commercial and domestic use.

AQUIFER: Precambrian aged Crystalline Rock (CRSL)

Geology and Aquifer Characteristics:

The crystalline rock in this area consists of metamorphosed phyllite and schist (Strobel and others, 1999). The aquifer is under unconfined conditions and the static water levels of wells in this area are probably at about the same elevation as surface water. Groundwater is derived primarily through joints, fractures and foliation within the rock. The distribution, orientation and interconnection of these zones of secondary porosity and permeability are unpredictable, and the aquifer characteristics are site specific and highly variable. Recharge to the crystalline rock occurs through infiltration of precipitation and steamflow losses. Average annual recharge to the aquifer has not been quantified.

The Water Rights Program monitors an observation well (CU-86A), completed into the crystalline aquifer in the City of Custer, about 32 miles south of this well site. The hydrograph for the observation well is shown in figure 1.

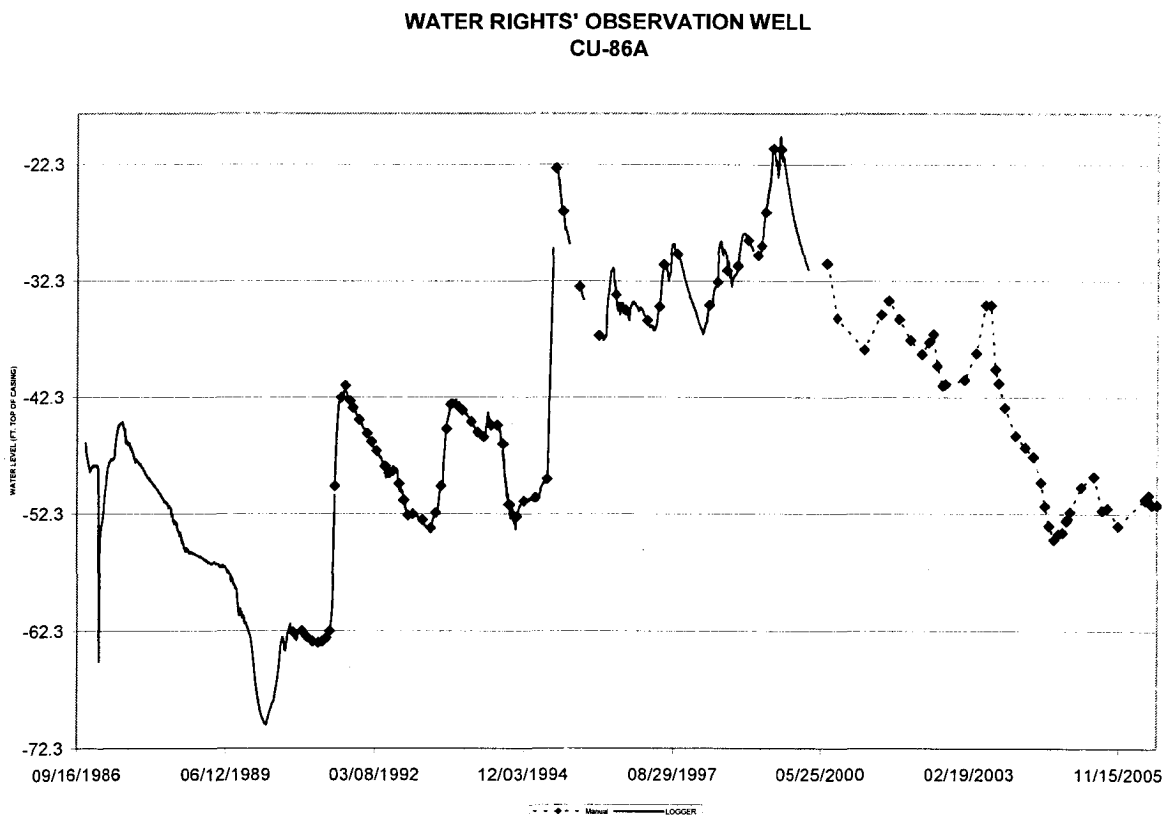


Figure 1. Hydrograph of Water Rights' Observation Well CU-86A, located approximately eighteen miles south of 2592-2

Water levels in the observation well fluctuate over 50 feet in response to varying climatic conditions, rising during wet years and gradually declining water levels during dry years. The observation well data shows the water levels of the aquifer were 29 feet higher than the current level in 1999 and 20 feet lower in 1990. The aquifer is expected to react similarly in this area.

Review of Existing Water Rights:

There are a number of domestic wells completed into the crystalline rock in this area. One domestic well owner- Gary Sparks, phoned the DENR-Water Rights Program on June 30, 2005, during the construction of this well, and expressed concerns over well interference. Mr. Sparks should be provided with notice of this application.

There is only one Water Right/Permit appropriating water from the aquifer within approximately four miles of this well site. It is Water Right No. 1362-1, Kinship Mountain Ministries, appropriating 0.09 cfs for institutional use. The well for 1362-1 is located about one and three-fourths miles southwest of the well that is to be used to supply 1864-1. The distance between wells (1362-1 & 1864-1) should be sufficient to minimize any well interference..

Since the porosity of the Crystalline aquifer is small, 0.03-0.10, (Driscoll and others, 2002) drawdown from a pumped well or wells, may extend over a fairly widespread area. Although the diversion rate proposed by this application is small (30 gpm), it is possible that drawdown from 1864-1 could be measurable in the area domestic wells.

ARSD 74:02:04:20(6) defines an adequate well as a well constructed to allow the inlet to the pump to be placed not less than 20 feet into the saturated aquifer. An adversely impacted domestic well is defined by ARSD 74:02:04:20(7) as a well in which the pump intake was set at least 20 feet below the top of the aquifer and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner's needs. Since the porosity of the Crystalline aquifer is low, 20 feet of saturated thickness may not be sufficient for a well to be a reliable water supply. In other words, in this hydrogeologic setting, wells that are "adequate" by definition may not be reliable water supplies. Under these circumstances it can be argued that, technically, any measurable interference (drawdown), from a competing well is actually an adverse impact.

It is unlikely that wells which are reliable water supplies will be negatively impacted by pumping from this proposed appropriation. However, in this hydrogeologic setting, low yield wells that are at best marginal in terms of supplying reliable water supplies could be "technically" affected, although any "practical" affect to the users water supply would be inconsequential. Enforcement of the domestic well preference that is provided by statute would have to be considered on a case by case basis.

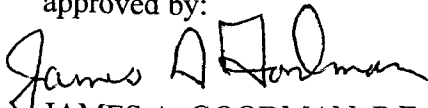
Conclusions:

1. The Precambrian aged Crystalline Rock is a viable aquifer in this area.
2. The aquifer is unconfined and interference is not expected to be a concern.



KEN BUHLER
Natural Resource Engineer

approved by:


JAMES A. GOODMAN, P.E.
Natural Resources Engineer

REFERENCES:

- Driscoll, D.G., Carter J.M., Williamson, J.E., and Putnam, L.D., 2002, Hydrology of the Black Hills Area, South Dakota: U.S. Geological Survey Water-Resources Investigations Report 02-4094, 150 p.
- Strobel, M.L, Jarrell, G.J., Sawyer, J.F., Schleicher, J.R., Fahrenbach, M.D., 1999, Distribution of Hydrogeologic Units in the Black Hills Area, South Dakota: U.S. Geological Survey Hydrologic Investigations Atlas HA-743, 3 sheets, scale 1:100,000
- Water Rights, 2006a, Domestic Well Logs, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2006b, Observation Well Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.
- Water Rights, 2006c, Water Permit/Right Files, SD DENR-Water Rights Program, Joe Foss Bldg, Pierre, SD.

AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA
COUNTY OF LAWRENCE

Teri Adler, being duly sworn, says: That the *Lawrence County Journal* is, and during all times hereafter mentioned, was a legal newspaper as defined in SDCL 17-2-2, as amended, published at Spearfish, Lawrence County, South Dakota, by Lee Enterprises; that affidavit is and, during all of said times, was employed as Customer Service Representative by the publisher of such newspaper and has personal knowledge of the facts stated in the affidavit; that the notice, order or advertisement, a printed copy of which is attached, was published in said newspaper for successive issues, bearing the following dates:

September 06,	200	6	_____	200	_____
September 13,	200	6	_____	200	_____
_____	200	_____	_____	200	_____
_____	200	_____	_____	200	_____
_____	200	_____	_____	200	_____

that the full amount of the fee charged for publishing the same, to-wit, the sum of \$ 39.29, insures solely to the benefit of the publisher of said newspaper: that no agreement or understanding for the division of the fee has been made with any person, and that no part of the fee has been agreed to be paid to any other person.

Teri Adler
Customer Service Rep

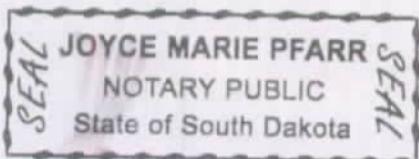
Subscribed and sworn to before me this

13th day of September, 2006

Joyce Marie Pfarr

My commission expires. 08/14/2012

Notary Public, South Dakota



Account No. 60007078

RECEIVED Total Amount 39.29

SEP 14 2006

WATER RIGHTS
PROGRAM

Wednesday, September 13, 2006

Lawrence County Journal

PUBLIC NOTICES

and from one well completed into the Precambrian aged Crystalline Rock (120 feet deep) located in Lot 2 HES 417 (NW 1/4 SE 1/4) Section 3-T3N-R4E. The water is for commercial and domestic use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1864-1 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the appli-

cation, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written

petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 25, 2006.

The petition may be informal, but must include a statement describing the petitioner's interest in the appli-

cation, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application.

Steven M. Pirner, Secretary,
Department of Environment and
Natural Resources.

Published September 13, 2006
Lawrence County Journal

NOTICE OF APPLICATION NO. 1864-1 to Appropriate Water

Notice is given that Hay Creek Ranch, 21765 Penny Lane, Nemo SD 57759 has filed an application for a water permit to appropriate 0.067 cubic feet of water per sec-



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

August 28, 2006

Lawrence Co Journal
376 Main Suite A
Deadwood SD 57732

ATTENTION: Legal Public Notice

Enclosed is a Notice on Application No. 1864-1 to Appropriate Water to be published twice. Please publish the first notice on September 6, 2006 with the second publication 7 days later. The text of the notice can be e-mailed to your paper by contacting Karen Schlaak at (605) 773-3352.

Please BILL the APPLICANT for the cost of publication. The APPLICANT is Hay Creek Ranch, %Doug Lindgren, 21765 Penny Lane, Nemo, SD (Ph # 605-578-1142).

Please send the Water Rights Program the first publication immediately. The publication is checked for accuracy so any corrections can be made in the second publication. You may use the form below or fax a copy of the first publication. Any fax should be sent to the attention of Karen Schlaak at (605) 773-4068. Publication errors can invalidate the public notice.

After the second publication, **please send us an affidavit or use the enclosed Proof of Publication form.** The applicant pays the cost of publication, but the Water Rights Program records require an affidavit or Proof of Publication. Delays in receiving the affidavit can be costly to the applicant.

Sincerely,


Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

No. 1864-1

TO: Eric Gronlund
Water Rights Program
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of August 28, 2006 enclosing Notice to Appropriate Water by Application No. 1864-1 which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT
THE NEWSPAPER RIGHT AWAY.

August 28, 2006

Hay Creek Ranch
% Doug Lindgren
21765 Penny Lane
Nemo SD 57759

Dear Mr. Lindgren:

Water Permit Application No. 1864-1 for commercial use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Publisher of the Lawrence Co Journal printed at Deadwood, SD (Ph # 605-578-3305). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice prior to publication and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your Notice and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization, the publisher has been instructed to publish your notice once each week for two consecutive weeks. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,


Eric Gronlund
Natural Resources Engineer
(605) 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

Instruction to Newspaper - Publish first Notice on September 6, 2006 with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF APPLICATION NO. 1864-1 to Appropriate Water

Notice is given that Hay Creek Ranch, 21765 Penny Lane, Nemo SD 57759 has filed an application for a water permit to appropriate 0.067 cubic feet of water per second from one well completed into the Precambrian aged Crystalline Rock (120 feet deep) located in Lot 2 HES 417 (NW ¼ SE ¼) Section 3-T3N-R4E. The water is for commercial and domestic use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1864-1_ because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. In accordance with SDCL 46-2A-23, the Chief Engineer will act on the application, as recommended, unless a petition is filed opposing the application or the applicant files a petition contesting the Chief Engineer's recommendation. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled and the Water Management Board will consider the application. Notice of the hearing will be given to the applicant and any person filing a petition.

Any person interested in opposing or supporting this application or recommendation must file a written petition with BOTH the applicant and Chief Engineer. The applicant must file a petition if contesting the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by September 25, 2006.

The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained. Contact Eric Gronlund at the above Water Rights Program address to request copies of information pertaining to this application. Steven M. Pirner, Secretary, Department of Environment and Natural Resources.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

August 28, 2006

Gary Sparks
21752 Penny Lane
Nemo SD 57759-7627

Dear Mr. Sparks:

Please find enclosed a copy of the report, recommendation and public notice for a water right permit application filed by Hay Creek Ranch. The public notice is to be published in the Lawrence County Journal on September 6 and 13, 2006.

This information is being sent to because you had called the Water Rights Program concerning the use of the well by Hay Creek Ranch. If you have any questions, please contact Ken Buhler or myself at (605) 773-3352.

Sincerely,

Eric Gronlund
Water Rights Program, DENR
605 773-3352
eric.gronlund@state.sd.us

enclosures

Date: Friday, September 1, 2006

To: Department of Environment and Natural Resources
PMB 2020
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3182

RECEIVED
SEP - 5 2006
WATER RIGHTS
PROGRAM

From: Gary L. Sparks
21752 Penny Lane
Nemo, South Dakota 57759-7627

Re: Water Permit Number 1864-1 (Hay Creek Ranch- Doug Lindgrin)

Attn: Ken Buhler

Dear Ken:

I am in receipt of the information pertaining to the above-mentioned water permit. I am very concerned about the quality and level of water in our well that is in our local aquifer. We have had 7 dry years here, and the porosity flow becomes even slower. We just have not had the snow pact to replenish the water levels; this aquifer is being very reliant on surface run-off. Our well has served our ranch needs for 30 years with no problem. Our water quality has been second to none. We want to know who is going to pay for a new well when ours is no longer able to supply our needs.

We are also concerned about the quality as well. The Hay Creek Ranch is boarding horses, and they are confined to pens 24/7. These penning procedures simulate feedlot status, and you have several areas of concentrated horse urine on unvegetated ground waiting to be flushed into the aquifer. Is this place permitted for this type of animal containment?

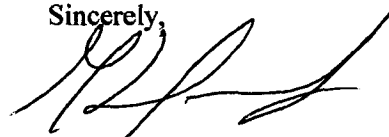
We also have a problem with past performance of the Hay Creek Ranch, which isn't on Hay Creek. In June of 2005 Mr. Lindgrin dug out an old beaver pond as a stock dam. This creek had been dry for 5 years due to dry conditions; in late June a hose was running from the well to the pond. Several days later the creek was flowing through our place. Gee, a miracle from above, or just plain stupidity! The well was pumped dry and a new one drilled. Mr. Lindgrin denies this activity, as he denies being in business, or even the thought; yet the Lawrence Country Commission approved his Conditional Use Permit in June of 2005. Hay Creek Ranch now has two wells. Who is going to monitor withdrawal for compliance to this permit? We think a meter is in order, and one of these wells capped. Our well dropped 6 feet due to this activity, and that is when we notified you last year. We don't need a hearing on these matters if we can get something in writing to protect our well and way of making a living.

To recap our 3 concerns:

1. Loss of our well due to no or not enough water.
2. Loss of our well due to contamination of water.
3. Dropping of water level in our well due to uncontrolled pumping in the Hay Creek Ranch wells.

After being on our place for 30 plus years I have yet to see a study that is truly a reliable yardstick concerning hydro geologic situations. I hold degrees in Biology with an emphasis in Limnology and Geology. I can bore you with statistics, however we just want our concerns addressed and some guarantees for down the road. We believe in handling problems on the front end, as it tends to make life a lot easier. If these problems can't be addressed, then I would request a hearing with our attorney Mr., Thomas Brady, 135 East Colorado Blvd., Spearfish, South Dakota 57783 being in attendance. Thank you for your attention and concern in this matter, and we look for your reply.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Sparks', with a long horizontal flourish extending to the right.

Gary L. Sparks



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

September 8, 2006

NOTICE

TO: Douglas Lindgren
Hay Creek Ranch
21765 Penny Lane
Nemo SD 57759

Gary L. Sparks
21752 Penny Lane
Nemo SD 57759-7627

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Notice of Hearing on Water Permit Application No. 1864-1, Hay Creek Ranch

Gary Sparks submitted a letter to Ken Buhler of the Water Rights Program expressing concern in the matter of Water Permit Application No. 1864-1 filed by Hay Creek Ranch. A copy of the letter is enclosed. This letter constitutes a petition to intervene in the application process; therefore, a hearing is being scheduled before the Water Management Board. This will allow for testimony to be presented and the Board will make its decision based on the evidence presented.

As specified in the publication notice, Application No. 1864-1 proposes to appropriate 0.067 cubic feet of water per second from one well completed into the Precambrian aged Crystalline Rock (120 feet deep) located in Lot 2 HES 417 (NW ¼ SE ¼) Section 3-T3N-R4E. The water is for commercial and domestic use.

The Water Management Board will conduct a hearing to consider Application No. 1864-1 at 2:30 PM (Central Time), on October 11, 2006, in the Visitor Center (west side of Capitol Lake), 650 E. Capitol Avenue, Pierre SD. Pursuant to SDCL 46-2-9, 46-2-11, and 46-2A-23, the Board has legal authority and jurisdiction to conduct this hearing. The hearing time is an estimate and may be delayed due to prior agenda items. Notice will be provided to all parties of record of any change in the hearing time or date.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 1864-1 because 1) unappropriated water is available, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the evidence presented at the public hearing.

The October 11, 2006, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by September 30, 2006.

This hearing may be an adversarial proceeding. Any party of record and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Notice is further given to persons with disabilities that this hearing is being held in a physically accessible place and that interpreter services will be provided, upon request, during the hearing. Please notify Eric Gronlund at (605) 773-3352 by September 30, 2006, if you have any questions about the hearing process or have special needs for which the department will make arrangements.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-23; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15.

c: Diane Best, Assistant Attorney General
Thomas Brady, Attorney, 135 East Colorado Blvd, Spearfish SD 57783

enclosure

NOTE: Since this matter does not involve a monetary controversy in excess of \$2,500.00 or termination of a property right in accordance with SDCL 1-26-18.3, the Chief Engineer has determined this contested case need not be referred to the Office of Hearing Examiners. If any party disagrees with this determination, the Chief Engineer shall be notified by September 30, 2006.

CERTIFICATION

I hereby certify that on September 8, 2006, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated September 6, 2006, regarding scheduling of hearing for Water Right Permit Application No. 1864-1, Hay Creek Ranch, addressed as stated below :

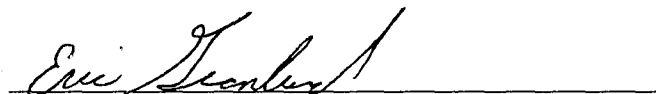
Douglas Lindgren
Hay Creek Ranch
21765 Penny Lane
Nemo SD 57759

Gary L. Sparks
21752 Penny Lane
Nemo SD 57759-7627

Thomas Brady, Attorney
135 East Colorado Blvd
Spearfish SD 57783

A copy of the above described Notice was sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building



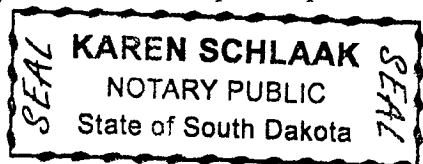
Eric Gronlund
Natural Resources Engineer
Water Right Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 11th day of September 8, 2006.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007



TO: Dept. of Environment & Natural Resource

PMB 2020

~~SEP~~ 9-12-06

Joe Foss Building

523 East Capitol

Pierre S.D. 57501

RECEIVED
SEP 15 2006
WATER RIGHTS
PROGRAM

From Gary L Sparks

21752 Penny Lane

Nemo S.D. 57259

Re Hearing (Permit # 864-1 Hay Creek Ranch)

10-21-06 - 2:30 pm

Attn Ken Buhler

Dear Ken

I have surgery on October 11 at 7:30 AM with Dr. Little in Spearfish. He is to do carpal tunnel and the ulnar nerve. It was scheduled in August and it takes 2 1/2 months to get on the dr. time table. I will be available only time after the 28th of Oct Sorry about this but this doesn't allow me to sleep at night and I need it fixed.

Over,

Sincerely
Mr. J. L. Sparks

Who is going to tell the difference
Between domestic and commercial on
these peoples permit. It could be like
putting the fox in charge of the hen house.

BRADY & PLUIMER
LAW FIRM & A PROFESSIONAL CORPORATION

ATTORNEYS:

THOMAS E. BRADY
RICHARD A. PLUIMER
KAREN PAIGE HUNT
STACY F. KOOISTRA
DYLAN A. WILDE

135 E. COLORADO BLVD., SPEARFISH, SD 57783
PHONE (605) 722-9000 FAX (605) 722-9001
WEB: bradypluimerlaw.com

Writer's Direct Email - tombrady@rushmore.com

PROFESSIONAL STAFF:

JAN BETTEN, CLA
MICHELLE SCHMIDT, CLAS
RENAE TYSDAL, PLS
LUANNE RUMMEL
WAYNE GILBERT, J.D.

September 20, 2006

REQUEST FOR AUTOMATIC DELAY

RECEIVED

SEP 21 2006

WATER RIGHTS
PROGRAM

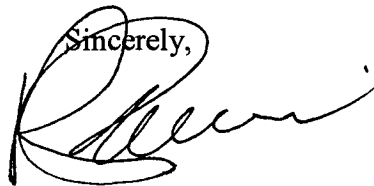
Garland Erbele, Chief Engineer
SD Department of Environment and
Natural Resources
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3182

Re: Water Permit Application No. 1864-1, Hay Creek Ranch

Dear Mr. Erbele:

This firm represents Gary Sparks in the above-referenced matter. As counsel and pursuant to the September 8, 2006 Notice of Hearing on Water Permit Application No. 1864-1, Hay Creek Ranch, written request is hereby made on behalf of Gary Sparks for an automatic delay and that the hearing be rescheduled accordingly.

Sincerely,

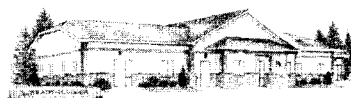


Richard A. Pluimer for
Thomas E. Brady,
Counsel for Gary L. Sparks

TEB:ljr

Enc.

cc: Diane Best, SD Attorney General's Office
Gary L. Sparks
John Frederickson
Douglas Lindgren, Hay Creek Ranch





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

September 21, 2006

NOTICE

TO: Douglas Lindgren
Hay Creek Ranch
21765 Penny Lane
Nemo SD 57759

Gary L. Sparks
21752 Penny Lane
Nemo SD 57759-7627

Thomas E. Brady
Brady and Pluimer Law Firm
135 E. Colorado Blvd
Spearfish SD 57783

FROM: *for* Garland Erbele, Chief Engineer
Water Rights Program

Eric Gronlund

SUBJECT: Automatic Delay of Hearing for Water Permit Application No. 1864-1, Hay Creek Ranch

Gary Sparks submitted a letter in response to the September 8th notice of hearing sent to parties which stated he will be unavailable for the October 11th hearing before the Water Management Board. A subsequent letter was received from counsel for Mr. Sparks formally requesting an automatic delay of the October 11, 2006 hearing before the Water Management Board. A copy of these letters are enclosed. Therefore, the hearing on Application No. 1864-1 is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on October 11, 2006.

The hearing to consider Application No. 1864-1 will be scheduled for the Water Management Board meeting on December 6 and 7, 2006 meeting in Pierre. Future notice will be provided to parties of the time, date and location of the meeting.

Please contact Eric Gronlund, Water Rights Program at (605) 773-3352, if you have any questions.

c: Diane Best, Assistant Attorney General

enclosure

CERTIFICATION

I hereby certify that on September 21, 2006, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated September 21, 2006, regarding automatic delay of hearing for Water Right Permit Application No. 1864-1, Hay Creek Ranch, addressed as stated below :

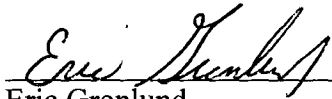
Douglas Lindgren
Hay Creek Ranch
21765 Penny Lane
Nemo SD 57759

Gary L. Sparks
21752 Penny Lane
Nemo SD 57759-7627

Thomas E. Brady
Brady and Pluimer Law Firm
135 E. Colorado Blvd
Spearfish SD 57783

A copy of the above described Notice was sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building



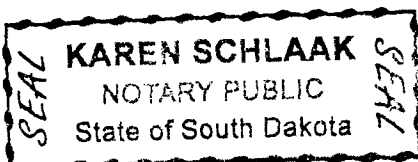
Eric Gronlund
Natural Resources Engineer
Water Right Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 22nd day of September, 2006.



Karen Schlaak
Notary Public
My Commission expires April 1, 2007



UNIVERSITY OF WYOMING

Date: 10-17-061084
EXHIBIT 3
11-2-06
C. BACHTo: SD Water Management
Board

RECEIVED

NOV 20 2006

From: Leo B. Gittings
21761 Penny Lane
Nemo, SD 57759WATER RIGHT
PROGRAMRe: Water Permit 1864-1, HCR

We own 5 acres,
located between Ray Creek
Ranch and the Sparks'
house and well. I
support approving this
permit and offer the
following opinions ~~regarding~~
and information, some of
which addresses issues
stated in Mr. Sparks' letter

EACH STUDENT -- A PERSON

UNIVERSITY OF WYOMING

dated 9-1-2006:

- There are not horses at Hay Creek Ranch (HCR) confined in pens 24/7 continuously. Lindgrens personal horses are not even kept in pens 24/7, continuously.
- In my opinion, horses at HCR at no time simulate "feedlot status" or cause concern for contamination of the aquifer. The only concern I have, regarding contamination of our water, is the large pile of manure (about 25-30 feet wide, 100-130 feet

EACH STUDENT -- A PERSON

UNIVERSITY OF WYOMING
long and 8-10 feet tall)
located on the Sparks
Property.

- In reference to the ~~Sparks~~ creek running through HCR and the Sparks property, it has not been continuously dry for 5 years.
- I have never witnessed a hose running from Lindgrens / and only well to their pond. There was a horse watering tank near the well and pond with a

EACH STUDENT -- A PERSON

(4)

UNIVERSITY OF WYOMING

hose laying near it
that I observed.

- I know the original
existing well was dug
deeper, but there
are not now, nor
ever have been, 2
wells at HCR.

- At no time have I
heard Mr. or Mrs. Lindgren
deny they are establishing
a business at HCR.

In fact, they speak openly
about it.

EACH STUDENT -- A PERSON

(5)

UNIVERSITY OF WYOMING

• Our 10-year old well is about 65 feet deep with the main water vein at about 45 feet, giving ~~us~~ an extra 20-foot reservoir. Since Lindgrens purchased their property, I have not observed any change in the quantity or quality of our water. Also, I do not anticipate any negative impact on our well in the future, from ^{the} HCR

EACH STUDENT -- A PERSON
operation,

(6)

DIVISION OF STUDENT AFFAIRS

UNIVERSITY OF WYOMING

I find Mr. and Mrs.
Lindgren to be
good neighbors,
~~conscientious~~ conscientious
about not doing
anything to cause an
adverse impact on
their neighbors or
the environment.

I see no valid
reason(s) not to
approve this water
permit for HCR.

Lee B. Utter

EACH STUDENT -- A PERSON



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

October 17, 2006

NOTICE

TO: Douglas Lindgren
Hay Creek Ranch
21765 Penny Lane
Nemo SD 57759

Gary L. Sparks
21752 Penny Lane
Nemo SD 57759-7627

Thomas E. Brady
Brady and Pluimer Law Firm
135 E. Colorado Blvd
Spearfish SD 57783

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Scheduling of Hearing for Water Permit Application No. 1864-1, Hay Creek Ranch

The Water Management Board changed the date of their next meeting to November 29 – 30, 2006.

The Water Management Board will consider Application No. 1864-1 filed by Hay Creek Ranch on November 29, 2006, at 2:00 PM (CDT), in the Pierre Chamber of Commerce meeting room, 800 West Dakota Avenue, Pierre SD. The Chamber of Commerce building is located by turning right immediately upon crossing the Missouri River coming into Pierre. Notice will be provided to parties if there is a change in the hearing time or date.

Applicable provisions of the public notice published September 6 and 13, 2006 in the Lawrence County Journal and the notice dated September 8, 2006 will still apply. This hearing may be an adversarial proceeding. Any party of record has the right to be present and to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Please contact Eric Gronlund, Water Rights Program at (605) 773-3352, if you have any questions.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on October 17, 2006, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 17, 2006, regarding scheduling of hearing for Water Right Permit Application No. 1864-1, Hay Creek Ranch, addressed as stated below :

Douglas Lindgren
Hay Creek Ranch
21765 Penny Lane
Nemo SD 57759

Gary L. Sparks
21752 Penny Lane
Nemo SD 57759-7627

Thomas E. Brady
Brady and Pluimer Law Firm
135 E. Colorado Blvd
Spearfish SD 57783

A copy of the above described Notice was sent Inter-office to:

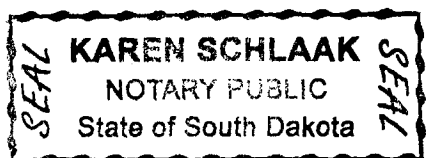
Diane Best, Assistant Attorney General, Capitol Building


Eric Gronlund
Natural Resources Engineer
Water Right Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 19th day of October, 2006.


Karen Schlaak
Notary Public
My Commission expires April 1, 2007



*In the Black Hills of South Dakota, an adventure awaits
around every turn.
For a real outdoor experience, saddle up and hit one of the
trails found in South Dakota's Black Hills National Forest.*

November 14, 2006

Garland Erbele, Chief Engineer
Water Rights Program

Department of Environment and Natural Resources
PMB 2020
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3182

RECEIVED

NOV 17 2006

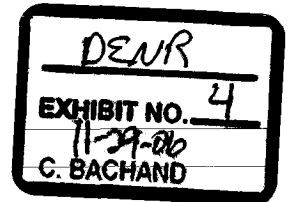
WATER RIGHTS
PROGRAM



HAY CREEK
RANCH

21765 PENNY LANE
NEMO, SD 57759

PHONE: (605) 578.1142
FAX: (605) 578.1142
haycreekranch.net



Dear Mr. Erbele

I am writing you in regard to your recommendation to approve Water Permit Number 1864-1. I agree with your recommendation and seek support for approval in the November 29th Water Management Board Hearing.

I am certain you are aware of Mr. Sparks's letters regarding our application and his accusations about our handling of our well water and management of our livestock.

To set the record straight:

1. We are proud to acknowledge we are in business, Hay Creek Ranch was established in 2005 with the intent of providing guests with **An Unspoiled Adventure in the Black Hills.**
2. We have never run water from our well into our pond. Sediment was removed from the pond to regain its usefulness and aesthetic value. Summer rains and winter snowfall filled the pond.
3. We have never had more than one working well on our property.
4. We drilled a new well in the summer of '05 because we were not pleased with the quality of our water, not because our well went dry.
5. Immediately after establishment of our new well, the old well was abandoned and capped.
6. Our new well is established at 120 feet deep, an adequate depth to meet our needs, in an aquifer that has an abundance of high quality water.
7. Points 3-6 above are documented in our Drillers Report and was sent into the appropriate agency after our well was established.
8. Our 5 horses are in our corrals on a seasonal basis, the rest of the year they are on a neighbors pasture. Our guests horses are in the corrals for the time they are not out riding in the National Forest.

AN UNSPOILED ADVENTURE IN THE BLACK HILLS

9. We have an agreement with neighbors to take our manure for their use in establishing a new lawn and fertilizing their garden, as well as fertilization of their pasture.

10. Our planning, development and operation of Hay Creek Ranch has followed all of the required steps and regulations required on a local, state and federal level to maintain the environmental integrity of our landscape. We continue to follow all of the guidelines established for businesses like ours in South Dakota, not because we have to, but because we value a healthy environment and take responsibility for it.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Lindgren", with a stylized flourish at the end.

Doug Lindgren
President
Hay Creek Ranch



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

November 20, 2006

TO: Douglas Lindgren
Hay Creek Ranch
21765 Penny Lane
Nemo SD 57759

Gary L. Sparks
21752 Penny Lane
Nemo SD 57759-7627

Thomas E. Brady
Attorney at Law
135 E. Colorado Blvd
Spearfish SD 57783

FROM: Eric Gronlund 
Water Rights Program, DENR

SUBJECT: Hearing on Water Permit Application No. 1864-1, Hay Creek Ranch

The Water Management Board is scheduled to consider Water Permit Application No. 1864-1 at 2:00 PM, November 29, 2006 at the Pierre Chamber of Commerce Building, 800 W. Dakota Avenue, Pierre SD. The agenda time is an estimate

I am enclosing a copy of the report, recommendation and petition in the matter of Water Permit Application No. 1864-1 filed by Hay Creek Ranch. State law directs the Chief Engineer to provide Water Management Board members with a copy of all pleadings including petitions for each proceeding. The enclosed material is the same information being sent to the Board members in advance of the hearing.

If you have any questions, please feel free to contact me at (605) 773-3352 or email eric.gronlund@state.sd.us.

c: Diane Best, Assistant Attorney General

enclosure

Hay Creek Ranch

An unspoiled adventure in the Black Hills of South Dakota

As told by owners Doug and Jody Lindgren

Throughout our lives we have thousands of thoughts and ideas. Some of them we act on, but most we let slip away. I believe that those thoughts and ideas come from God and they are meant to help us find our direction. Think of them as signposts or mile markers along our journey of life. We acted on one of those ideas and decided to leave great jobs in Iowa and move to the Black Hills to start a new business and live a totally different life.

We have been bringing our horses to the Black Hills for several years. The first time we came to the Nemo area was in early June 2001. In the fall I returned to see the spectacular autumn color. In the following years we visited every June and again in July, sometimes just the two of us and other times with family and friends. I came back each fall for a week of color. Every time we were here it was harder to go back to Iowa so we decided to look for property suitable for a campground. We bought 20 acres in November 2004 and moved here permanently in April 2005. We spent most of 2005 clearing brush and turning a forest into a park. We have been building our facilities since January 2006 and with help from family and lots of GREAT friends we were able to open our camp for business this June.

Our campground is surrounded on three sides by the Black Hills National Forest and is over a mile from the nearest paved road. It's so quiet here that usually all you hear is the wind in the trees. There's no cement, no streetlights and no traffic! The Black Hills are such a great part of the United States we think everyone should experience them at least once.

We are focused on people that want to bring their horses to the Black Hills and we also welcome hikers, bikers, motorcyclists, hunters or anyone who just wants to get away from it all. Our goal for guests of Hay Creek Ranch is to make their vacation exactly what they want and to share a little of the beauty, peace, quiet and tranquility we have here. Some of our guests never leave the campground, except on horseback, while others take advantage of all the tourist sites and history

available. Hay Creek Ranch provides guests with a place to really see the Hills, not the 55 mile-per-hour down the highway view, but a view from deep in the forest amongst old growth pine, beautiful aspen, rock outcroppings and clear mountain streams. There are hundreds of miles of trails to ride or hike ranging from Forest Service roads to wildlife trails. The area is perfect for riding horses and offers all levels of difficulty for riders from amateur to experienced.



Doug and Jody Lindgren
Owners of Hay Creek Ranch

For wildlife lovers we have a myriad of birds to hear and see as well as deer, elk, squirrels, chipmunks, bobcats, coyote, and an occasional mountain lion. In the spring guests can see hundreds of wildflowers in bloom and by mid summer you can find ripe raspberries on the hillsides. In the fall enjoy the crisp mountain air and awesome colors contrasting the deep greens of pine and spruce against the brilliant gold and yellow

aspens. Also listen for the bugle of elk during their rut. Winter brings us more wonder with the snow falling straight down laying a blanket over the ground and painting the trees with beauty you have to see to believe. The snow is like powder and is so pure it absorbs the blue from the sky. The trails throughout the forest are perfect for snowshoe travel and cross-country skiing. Guests may want to go for a bobsled ride behind a team of horses and return to their warm cabin for a hot chocolate.

Our camp is really a special place because we are off of the beaten path. The design and layout of the camp is very open and each cabin, RV site and tent area has its own character. We offer something for everyone. We currently have four cabins with full baths and kitchenettes, full or queen size bunk beds and electric baseboard heat. These four cabins also feature porches with patio furniture and fire rings for a campfire on a cool evening. If you want it a little more rustic, our Line Shack is just like the cowboys used on the ranch. This log cabin is set up with a full size bed and handmade furniture. It's nestled in the trees giving you

the feel of entering the 1800s. Our RV sites have electricity and water hookups, or not, whatever you desire. There is shade and easy access to park your rig. There are plenty of picnic tables and fire rings in the RV area and a dump station is available. The tent sites also give you the choice of utilities or you can be as primitive as you wish.

Hay Creek Ranch has a bathhouse that is second to none. Each private bath has a sink, shower and flush toilet. We designed it to provide a comfortable facility you can enjoy after a day on the trails. You will receive a good hot shower in a clean, spacious, temperature controlled environment.

For horse comfort we have safe, clean, shaded corrals with pen sizes to meet everyone's needs. Our corrals can accommodate up to 40 horses.

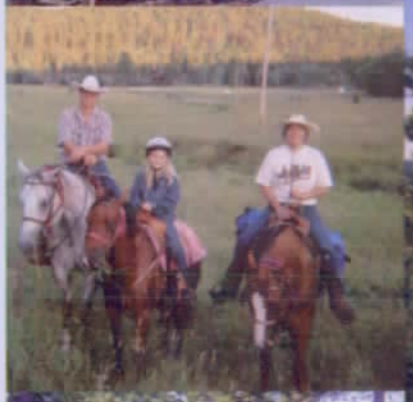
Special events at Hay Creek Ranch in the past summer included a weekend hosting Suncatchers, a non-profit organization that provides therapeutic riding for physically challenged kids. What great fun we had serving them! We also had a wedding at Hay Creek Ranch during the Sturgis Bike Rally. We were honored that this couple picked our camp for their outdoor ceremony and we look forward to hosting more of these events.

We have a lot of ideas for future activities. In the fall of '07 we're planning a two to three day Wagon Train through the Hills. Other ideas include special weekend getaways for couples or families, holiday events, equine clinics, organized trail rides, mountain biking and maybe even dog sled races. The possibilities and our dreams are endless!

Our immediate plans for Hay Creek Ranch are to continue to provide our guests with good value and high quality services while growing our business. We want to have the kind of place people love to get back to because they had such a great time. We hope to create a sense of family and friends with our guests by providing an atmosphere that feels like home.

Please check out our website at www.haycreekranch.net or give us a call at 605-578-1142.







**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

December 5, 2006

NOTICE

TO: Douglas Lindgren
Hay Creek Ranch
21765 Penny Lane
Nemo SD 57759

Thomas E. Brady
Attorney at Law
135 E. Colorado Blvd
Spearfish SD 57783

FROM: Garland Erbele, Chief Engineer
Water Rights Program *Garland Erbele*

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and Final Decision

The Water Management Board directed Diane Best, Assistant Attorney General, to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision in the approval of Water Permit Application No. 1864-1 filed by Hay Creek Ranch. The Board will consider adoption of Findings, Conclusions and Final Decision at 1:00 PM (CDT) on Wednesday, March 7, 2007, in the meeting room of the Floyd Matthew Training Center, Joe Foss Building, 523 E. Capitol Avenue, Pierre SD 57501. Notice will be provided to parties if there is a change in the hearing time.

The Board requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member and parties by January 25, 2007. Written objections or comments in support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision are to be mailed to each Board member, the Board attorney (mailing list enclosed) by February 23, 2007.

At the Board's discretion, oral arguments by parties who timely filed written comments in opposition or support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision may be made on March 7, 2007. The public hearing was completed on November 29, 2006. No additional testimony will be received on March 7, 2007.

If either party has questions about the findings process, please contact Eric Gronlund at (605) 773-3352.

Enclosure

c: Jeff Hallem, Assistant Attorney General
Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on December 5, 2006, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated December 5, 2006, regarding preparation of Findings of Fact, Conclusions of Law and Final Decision in the matter of Water Right Permit Application No. 1864-1, Hay Creek Ranch, addressed as stated below:

Douglas Lindgren
Hay Creek Ranch
21765 Penny Lane
Nemo SD 57759

Thomas E. Brady
Attorney at Law
135 E. Colorado Blvd
Spearfish SD 57783

A copy of the above described Notice was sent Inter-office to:

Diane Best, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501
Jeff Hallem, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501

Eric Tondel

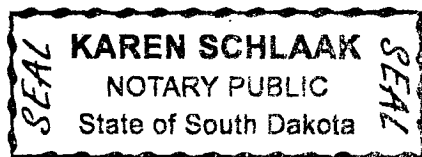
Eric Gronlund
Natural Resources Engineer
Water Right Program

[illegible]

Sworn to, before me, this 16 day of December 2006.

Karim Akmalak

Karen Schlaak
Notary Public
My Commission expires April 1, 2007





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

March 9, 2007

NOTICE

TO: Douglas Lindgren
Hay Creek Ranch
21765 Penny Lane
Nemo SD 57759

Thomas E. Brady
Attorney at Law
135 E. Colorado Blvd
Spearfish SD 57783

FROM: Garland Erbele, Chief Engineer
Water Rights Program

SUBJECT: Adoption of Findings of Fact, Conclusions of Law and Final Decision

This is to notify you that the Final Decision, including Findings of Fact and Conclusions of Law, were adopted March 7, 2007, by the Water Management Board approving Water Right Permit No. 1864-1 filed by Hay Creek Ranch. A copy of the signed Findings of Fact, Conclusions of Law and Final Decision is enclosed.

South Dakota statutes provide that decisions of the Board may be appealed to the Courts. Notice of appeal of the Board's decision must be filed within thirty days of this notice and be in accordance with procedures established in SDCL 1-26-31.

Enclosure

c: Jeff Hallem, Assistant Attorney General
Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on March 9, 2007, I have personally deposited with the United States mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 7, 2007, regarding adoption of Findings of Fact, Conclusions of Law and Final Decision in the matter of Water Right Permit Application No. 1864-1, Hay Creek Ranch, addressed as stated below:

Douglas Lindgren
Hay Creek Ranch
21765 Penny Lane
Nemo SD 57759

Thomas E. Brady
Attorney at Law
135 E. Colorado Blvd
Spearfish SD 57783

A copy of the above described Notice was sent Inter-office to:

Diane Best, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501
Jeff Hallem, Assistant Attorney General, 1302 E. Hwy 14, Suite 1, Pierre SD 57501



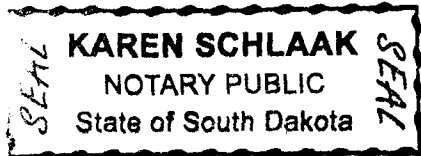
Eric Gronlund
Natural Resources Engineer
Water Right Program

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 12th day of March, 2007.



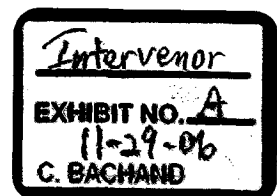
Karen Schlaak
Notary Public
My Commission expires April 1, 2007

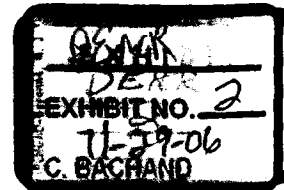


PROPOSED REQUIRMENTS/RESTRICTIONS RE: WATER PERMIT APPLICATION NO. 1864-1

In the event a water permit is granted, the following qualifications, restrictions, limitations and requirements shall be placed as conditions for the issuance of the permit and as conditions for the continued appropriation of water:

1. All well drilling data must be provided to Gary and Penny Sparks and the DENR.
2. The appropriation be defined as to what portion is for domestic and what portion is for commercial use.
3. That actual flow/appropriation be metered both as to domestic and commercial use (separately) and the data properly secured and recorded as to quantities appropriated.
4. That the permit be restricted to allow appropriation of only such amount of water as is demonstrated to be required.
5. That the Sparks' well shall be equipped with a monitor to determine if and when any adverse consequence occurs.
6. That no appropriated water be allowed to flow or be placed in surface storage areas such as ponds, etc. (stock tank(s) may be permitted provided there is proper overflow/waste protection).
7. In the event the water table of the Sparks' well goes down or there is other evidence of adverse effect to the Sparks' well, the burden of proof shall be on the permit holder (Lindgren) to demonstrate that the Lindgren well is not the cause.





KENT A. BUHLER

EDUCATION

B.S. Geological Engineering, South Dakota School of Mines and Technology, 1981

CAREER EXPERIENCE

Natural Resources Engineer Specialist - SD Dept of Environment and Natural Resources, Water Rights Program: Responsible for the management of the state's water well construction program, including licensure and regulation of well drillers operating in South Dakota and administration of the SD Well Construction Standards. Review and assess engineering reports and water permit applications from ground water sources. Monitor water use, investigate violation complaints and conduct water permit reviews for licensing. Provide technical assistance to the Water Management Board through evaluating ground water permit applications and through interpretation of data from the statewide observation well network.

District Field Engineer - Western Company of North America: Designed oil well stimulation and cementing programs and ensured QA/QC for the District's services.

MISCELLANEOUS

Provided technical assistance to the Steering committees for the Black Hills Hydrology Study and the Black Hills Water Management Study.

Provided technical assistance and testimony before the South Dakota Water Management Board for well construction enforcement issues and ground water permit applications since 1986, including applications for:

The City of Sioux Falls; The City of Rapid City, Coca-Cola Bottling Plant of the Black Hills; The City of Custer; Golden Reward Mining Company; and Frawley Ranch Development

STATE OF SOUTH DAKOTA

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT	)	PROPOSED FINDINGS OF FACT
APPLICATION NO. 1864-1	)	AND
HAY CREEK RANCH	)	CONCLUSIONS OF LAW

1. This is an application to appropriate 0.067 cubic feet of water per second (30 gallons per minute). The location of the well is Lot 2, HES 417 (NW 1/4 SE 1/4) Section 3, T3N-R4E, in Lawrence County. The proposed use of water is for commercial and domestic use.

2. Gary Sparks timely filed a petition to intervene and participated at hearing. Another petition to intervene was sent to the Board on October 17, 2006 and received by the Chief Engineer on November 20. The petition was filed by Leo Gittings. It was filed well past the published date to intervene (September 25, 2006) and intervention should be denied. Mr. Gittings was not present at hearing.

3. The water will be used by Applicant to supply water for his own household and stock watering needs. Further, it will be used for a commercial campground business. The business has cabins, RV sites, and tent sites. The business provides corrals for the horses of guests. The facility is also used for trail rides and other tourist activities. Applicant Exh. 1. The horses for both the commercial and the Applicant's personal uses will be stabled together and will use water from the same

water source. At the present time, the office for the commercial enterprise is also located within the household. Accordingly, water for both purposes will be used at the household/office location.

4. The grant of this Application would allow Applicant to appropriate from one well completed into the Precambrian Aged Crystalline Rock Aquifer 120 feet deep. The aquifer has limited porosity. The ground water at issue is derived primarily through joints, fractures, and foliation within the rock. The distribution, orientation, and interconnection of these zones of secondary porosity and permeability are unpredictable. The aquifer characteristics are site specific and highly variable.

5. The Water Rights Program monitors an observation well about thirty-two miles south of the well site. DENR expert witness Ken Buhler studied the hydrologic conditions of the observation well as compared to the hydrologic conditions of the location at issue in this proceeding. He concluded that the aquifer is expected to react similarly in this area, i.e. highly responsive to climatic conditions. Water levels in the observation well fluctuate over fifty feet in response to varying climatic conditions, rising during wet years and gradually declining during dry years. More specifically, the observation well data shows the water levels of the aquifer were twenty-nine feet higher than the current level in 1999, the

years previous to 1999 having been wet years. In 1990 the water levels were twenty feet lower than the current level, the years previous to 1990 having been drier years.

6. Although average annual recharge to the aquifer has not been quantified, the aquifer is a viable aquifer. In this regard, the Board credits the Buhler testimony, which was based on the geology and hydrologic conditions of the area and from his own longtime experience in the hydrology of the Black Hills aquifers. The Board, therefore, finds that there is a reasonable probability that there is unappropriated water available in the aquifer to support this water application.

7. Expert witness Buhler also testified concerning his opinion as to whether the proposed diversion can be developed without unlawful impairment of existing water rights. He examined this issued both in terms of domestic and appropriative water rights.

8. It is undisputed that there is only one appropriative water right from the aquifer within approximately four miles of the well site. It is water right 1362-1, Kinship Mountain Ministries, which appropriates 0.09 CFS for institutional use. This well is located about one and three-fourths miles from the well sought to be permitted in this proceeding. Kinship Mountain Ministries did not intervene in this proceeding. The distance between the wells (one and three-fourths miles) is of

sufficient distance that well interference would not be expected to occur. This is particularly the case considering the small diversion rate involved in the present application (0.067 cfs) as well as that of Kinship Mountain Ministries (0.09 cfs).

9. According to witness Buhler it is possible that the draw down from the Hay Creek well could be measurable in area domestic wells. The possible drawdown, if any, would be measured in inches not feet. It would have considerably less effect than the climate would have. Ultimately, this Board is required to consider whether possible drawdown to area domestic wells would constitute the unlawful impairment of existing water rights and preclude the grant of the water permit at issue. On the other hand, the Board has authority to consider whether the proposed water right can or should be granted, but conditioned in such a manner as to minimize or preclude drawdown in area domestic wells.

10. In determining whether a proposed diversion can be developed without unlawful impairment, this Board has consistently determined that a component of the unlawful impairment question is whether potentially affected domestic well owners are seeking to protect marginal or inadequate wells. Ordinarily, an adequate well is a well constructed to allow the inlet to the pump to be placed not less than twenty feet into the saturated aquifer. In the particular geological setting in

this case, however, twenty feet of saturated thickness may not be sufficient for a well to be a reliable water supply. In other words, wells that are "adequate" by simply being twenty feet into the saturated aquifer may not be "adequate" for their purpose. Low yield wells that are marginal in terms of supplying reliable water supplies could be affected by this new appropriation. On the other hand a well with a pump sufficiently in place in the saturated aquifers with adequate storage capability is unlikely to be adversely impacted by the appropriation at issue here.

11. The exact extent of affect on domestic wells would depend, in significant part, on the distance between the wells involved, the construction of the affected well, and the timing of withdrawals of water from the proposed well in addition to the issue of whether the proposed use will result in sporadic or continuous water withdrawals. Given these various factors, the Board finds that the water permit ought to be granted, but conditioned to protect domestic water uses with reliable water wells.

12. This Board finds that the permit will not adversely impair existing water rights for domestic use, particularly as conditioned below.

13. Prior rights to appropriate water use and any right for domestic use would take priority over the appropriative

water right granted in this proceeding. Such prior rights are enforceable as against this right. The priority of rights in this ground water situation applies when the priority wells are placed in a location in the aquifer which is conducive to the production of a reliable water supply, and the priority wells are otherwise adequately constructed. Simply put, the pump placement in a prior domestic well may not be protected if it (pump placement) is inadequate, or if the pump could be lowered and still produce a sufficient water supply. This determination is consistent with this Board's past determinations that because South Dakota's water resources are to be put to beneficial use to the fullest extent of which they are capable, the Board will not protect domestic water users if their wells are unreliable or placed at a location insufficient to supply a reliable quantity of water.

14. The Board finds that the proposed diversion will not adversely impair existing domestic or appropriative water rights as described in the foregoing Findings of Fact, particularly when conditioned as set forth above.

15. The Board has also considered whether the proposed use is beneficial. The water is a benefit to the appropriator for use for the guest ranch and tourist facility. In addition to benefit to the appropriator, this Board must also consider whether the contemplated use is consistent with the interests of

the public of this State and the best utilization of water supply. This Board has consistently approved applications for water use for commercial uses for tourist activities, including campground uses and other recreational purposes. This Board finds that use of water for stabling horses for tourists and other guests at the Hay Creek Ranch is a beneficial use of water. The specific proposed water use here also provides for use for the public welfare in that it provides for meeting drinking water needs of tourists visiting the Black Hills.

16. With respect to beneficial use, Intervenor Gary Sparks presented evidence concerning his claims regarding waste of water at this facility. The Board agrees that waste of water would not be a beneficial use. One of the claims relates to Mr. Spark's claims that the well would be used for replenishing water at a pond for aesthetic value. This permit application does not, however, seek to appropriate water for filling the pond. The Applicant indicates that he has not in the past and does not plan to use the water to fill the pond. Accordingly, this Board need not consider the question of whether using ground water to fill the pond would constitute a waste of water. Further, the applicant testified that he controls water use at the horse troughs and does not allow the water to overflow.

Based on the factors set forth above, this Board finds that use of water for this permit, as proposed, would constitute a beneficial use of water.

17. This Board is also required to determine whether the application is in the public interest. Intervenor Gary Sparks testified that the application was not in the public interest. He claims that the Hay Creek Ranch has not undertaken adequate means to insure that animal waste is properly disposed of. This Board has considered the testimony of both Mr. Sparks and that of the Applicant. The Applicant has testified that animal waste will be properly disposed of and that arrangements have been made with neighbors to use manure for establishing a new lawn and fertilizing their garden as well as fertilization of their pasture. When weighing the testimony, this Board finds that the water permit application is in the public interest.

18. To the extent that any public interest concerns addressed above were intended to apply to consideration of beneficial use (or vice versa) the same rational applies.

19. The Board finds that (a) there is reasonable probability that there is unappropriated water available for the applicant's proposed use, (b) the proposed diversion can be developed without unlawful impairment of existing rights, (c) the proposed use is of beneficial use, and (d) the proposed use is in the public interest.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter.
2. The petition to intervene filed by Leo Gittings was untimely in that it was filed after the deadline established by SDCL 46-24-4.
3. In light of the foregoing facts, there is a reasonable probability there is unappropriated water available for the Applicant's proposed use of ground water.
4. In light of the foregoing facts, the proposed uses for commercial and domestic purposes are beneficial uses in that they are (a) reasonable and useful and beneficial to the appropriator and (b) at the same time consistent with the interest of the public of this State and the best utilization of water supplies. SDCL 46-1-6(3).
5. In light of the foregoing facts, the proposed diversion can be developed without unlawful impairment of existing rights. The Board concludes that there is unlikely to be any adverse impairment on other appropriative or domestic wells. Further, any possible impairment to reliable wells would be prohibited by the conditions of this permit.
6. ARSD 74:02:04:20(6) defines an adequate well as a well constructed to allow the inlet to the pump to be placed not less than twenty feet into the aquifer. An adversely impacted domestic well is defined by ARSD 74:02:04:20(7) as a well in

which the pump intake was set at least twenty feet below the top of the aquifer and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner's needs. Since the porosity of the aquifer in this case is low, twenty feet of saturated thickness may not be sufficient for a well to be a reliable water supply in this particular area. In other words, in the specific hydrologic setting here, wells that are "adequate" by definition may not be reliable water supplies. This Board finds that this rule must be analyzed in light of the public interest and SDCL 46-1-4, which requires that South Dakota's water resources be put to beneficial use to the fullest extent of which they are capable. Considering this requirement, this Board necessarily finds that in the hydrologic setting at issue here, a water well must be constructed at a depth sufficient to produce a reliable water supply and meet proper well construction standards in order to constitute a well entitled to protection under the "adverse impairment" law. Adherence to ARSD 74:02:04:20(6) and ARSD 74:02:04:20(7) alone would curtail the utilization of the aquifer at issue in this proceeding without consideration of whether the wells to be protected actually constitute reliable water supplies. In this context, SDCL 46-1-4 necessarily overrides the administrative rule.

7. In light of the foregoing facts and conclusions, the proposed water use is in the public interest in that it provides potable water for tourists and water for horses. Moreover, the use is in the public interest in light of the criteria in SDCL 46-1-4, as discussed above.

8. The water permit application in this case meets the legal criteria for granting the permit as proposed.

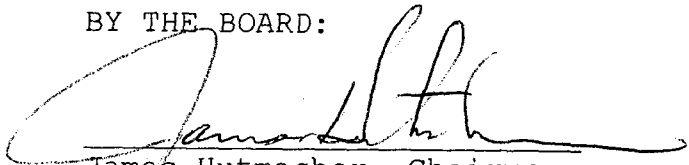
FINAL DECISION

Application No. 1864-1 is hereby granted and the permit shall be issued forthwith containing the following qualifications:

The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in the adequate domestic wells or in adequate wells having prior water rights.

Dated this 6th day of ^{March}~~January~~, 2007.

BY THE BOARD:


James Hutmacher, Chairman

j-pld_db Water Mgmt Bd Hay Creek Ranch



APR 30 2007

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

HAY CREEK RANCH
21765 PENNY LANE
NEMO SD 57759

Dear Sir:

Enclosed is Water Permit No. 1864-1 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Form 10, *Notice of Completion of Works and Application of Water to Beneficial Use*, is enclosed. Please return this completed form after you have finished the system and have put the water to beneficial use. An investigation can then be scheduled so the water license may be issued, thus completing the acquisition of a water right.

An informational sheet *Common Water Right Questions?* is also enclosed. This sheet is intended to answer some of the questions associated with obtaining and keeping a water right.

Sincerely,

Garland Erbele, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

RECEIVED

MAY - 8 2007

WATER RIGHTS
PROGRAMNOTICE OF COMPLETION OF WORKS AND
APPLICATION OF WATER TO BENEFICIAL USEDate May 4 2007TO: Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

FROM:

Hay Creek Ranch
(name)21765 Penny Lane
(address)Pemba SD 57759
(city, state, zip)605-578-1142
(phone)

I have completed the construction of the water use system and I have put the water to beneficial use to the maximum extent it is going to be used.

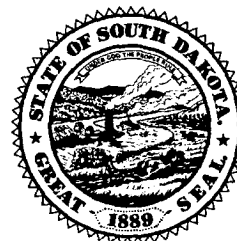
Water Permit No. 1864-1 states that the water use system is to be constructed by Mar 7, 2012, and water is to be put to beneficial use by Mar 7, 2014.
(date) (date)

The water use system was completed on May 17, 2006.
(date)

Applying the water to beneficial use was completed on May 17, 2006.
(date)

You may schedule an investigation so that the water license may be issued.

Douglas P. Lindgren - Hay Creek Ranch
(signature)



TO: Department of Environment & Natural Resources
 Water Rights Program
 523 East Capitol Ave
 Pierre, S.D. 57501

RECEIVED
 MAY 18 2006
 WATER RIGHTS
 PROGRAM

FROM: Gary L Sparks
 21252 Penny Lane
 Meeno, S.D. 57759
 605 578-3585

Re: Neighbors Well,

Dear Sirs,

Last year our neighbor Doug Lindgren, A.K.A. Hay Creek Ranch Campground, had a well drilled by Chet Arden for his Campground. A well was in place that was owned by the Jacobsens. Another well was drilled, because the new owner decided to fill his stock dam with water. ~~That~~ The stock dam had been dry for six years and it also fed our creek. We had no rain and all of a sudden we have water in this creek. He is pumping his well into the stock dam he built. The well goes dry, he needs a new well. This well

will serve his campground. I am concerned
our well will be in danger if something
isn't done. We've heard nothing from your
department on approving this well for
commercial purposes. We depend on our well in
times of drought to water our cattle.

Last year our well level dropped 4 feet
when he started pumping water into his
stock pond. I believed he has to have
a stock of water for fire but not at
our expense. What is going to be done,

Sincerely
HJL

SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

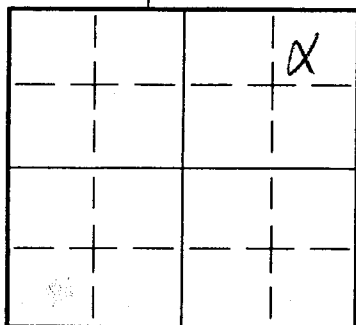
Location 1/4 1/4 Sec 3 Twp 4E Rg 3N
County Lawrence North

Please mark well location with an "X"

W

E

Well Completion Date

7-5-5

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.) 250 ft. from _____ (identify source).

PROPOSED USE:

☒ Domestic/Stock ☐ Municipal ☐ Business ☐ Test Holes
☐ Irrigation ☐ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

Air RotaryCASING DATA: ☐ Steel ☒ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>160</u> LB/FT	<u>6"</u> IN	<u>0</u> FT	<u>20</u> FT	<u>9</u> IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>Portland</u>	<u>3</u>	<u>946</u> lb./gal	<u>0</u> ft	<u>20</u> ft
_____	_____	_____ lb./gal	_____ ft	_____ ft

Describe grouting procedure _____

SCREEN: ☐ Perforated pipe ☐ Manufactured

Diameter _____ IN Length _____ FEET

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION: Was well disinfected upon completion?

☒ YES, How: Chlorox

Laboratory sent to for water quality analysis _____ NO, Why Not? _____

Well Owner: Doug Lindgren

Business Name: _____

Address: 21765 Penny Ln.
Deer S.D. 57759

WELL LOG:

DEPTH

FORMATION

FROM

TO

Black Shale
Black Shale02020120STATIC WATER LEVEL 50 Feet

If flowing: closed in pressure _____ PSI

GPM flow _____ through _____ inch pipe

Controlled by ☐ Valve ☐ Reducers ☐ Other _____

Reduced Flowrate _____ GPM

Can well be completely shut in? _____

WELL TEST DATA:

☐ PumpedDescribe: Air Assist☒ Bailed☐ Other

Pumping Level Below Land Surface

_____ ft. After _____ Hrs. pumped _____ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

H.T. Water at 30, 60, 85, 115
Well producing 30 gpm.This well was drilled under license # 638

And this report is true and accurate.

Drilling firm Aman DrillingSignature of License Representative: Bert AmanSignature of Well Owner or Equitable Property Holder: Douglas LindgrenDate: 7-12-05

RECEIVED

JUL 20 2005

WATER RIGHTS
PROGRAM

07-92

No letter sent



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

May 15, 2006

Gary L Sparks
21752 Penny Lane
Nemo, SD 57759

Dear Mr. Sparks:

I am writing in regard to your letter concerning the well that was completed for Doug Lindgren on July 5, 2005. The completion report for the well indicates that it is located in the NE $\frac{1}{4}$ Sec. 3, T3N-R4E, is 120 feet deep, had a static water level of 50 feet and was capable of producing 30 gallons per minute.

On July 7, 2005, Ken Buhler, a staff engineer with the Water Rights Program contacted Mr. Lindgren in response to your July 5, 2005 telephone call concerning the well. Mr. Lindgren informed Ken that the old well had been capped and was replaced. Mr. Lindgren stated the new well was to be used for household use only, although he was considering creating a campground. At that time, Mr. Lindgren was advised that a water permit is required for all commercial uses of water including a campground.

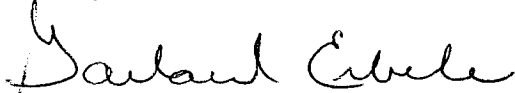
Upon receipt of your letter, we again contacted Mr. Lindgren and were informed that the well he constructed in 2005 is currently used only for household use. This use does not require a water permit provided the diversion rate does not exceed 18 gallons per minute on an average daily basis. Mr. Lindgren stated he is not, and has not pumped water to his stock dam. Mr. Lindgren indicated he intends to use the well to supply water to cabins which are currently being constructed for a commercial venture. He has been provided an application for a water permit to use the well for commercial purposes. Following review of the application, we will provide you a copy of the public notice of the Chief Engineer's recommendation to the Water Management Board related to the application.

South Dakota Water Law provides preference to the domestic use of water over all appropriative rights such as commercial uses. This preference dictates that a water permit/right can only be approved if there is reasonable probability that the proposed water use would not adversely affect existing water rights including domestic wells. If a Water Permit is approved the well owner is required to control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells. The rules are very specific on what an adequate well is and what constitutes an adversely impacted domestic well.

Essentially, the rules state that with the geologic/hydrologic conditions found in this area, a domestic well is "adversely impacted" if a pump is placed at least 20 feet below the well's water table at the time of construction, and the water level of the aquifer has declined to a level that the pump will no longer deliver sufficient water for the well owner's needs. In general, we find that in areas where the geology and hydrology are similar to your area, the natural/climatic conditions result in water level fluctuations that dwarf interference that may be caused by pumping.

If you have any questions feel free to contact Ken Buhler at (605) 773-3352.

Sincerely,

A handwritten signature in cursive script, reading "Garland Erbele".

Garland Erbele, Chief Engineer
Water Rights Program

cc: Doug Lindgren, 21765 Penny Ln, Nemo, SD 57759

Report of Examination of Works and/or Application of Water to Beneficial Use For Permit No. 1864-1

I have this day, October 18, 2016 made a thorough examination of the water use system constructed by Hay Creek Ranch, 21765 Penny Lane, Nemo, SD 57759 of Permit No. 1864-1, bearing the priority of 5/17/2006 authorizing the diversion of .067 cu. ft. per second of the water from one well for commercial purposes, in Lawrence County.

Inspection contact & relationship to permit holder, if applicable: Mike Anderson, neighbor
Correspondence to:
Doug Lindgren
21765 Penny Lane, Nemo, SD 57759

A. Works used to divert the water:

Well Information:

- 1) Well Drilling Firm: Aman Drilling (2005)
- 2) No. of Wells 1
- 3) Depth(s) 120 feet
- 4) Well log is available Yes

Casing:

- 1) Diameter 6"
- 2) Length 20 feet
- 3) Type PVC

Screen:

- 1) Type n/a
- 2) Length - feet
- 3) Static water level 50 feet

Pump:

- 1) Make Grundfos
- 2) Model 22SQE10-190
- 3) Size 3"
- 4) Capacity 24 GPM
- 5) Horsepower rating 1 hp

Note: The well was air tested at 30 gpm and has a Grundfos variable speed constant pressure pump installed. The exact model is unknown but it is thought to be the model listed above.

B. Works used to transport water to place of use:

- 1) Type PE
- 2) Size 1 1/4" inches
- 3) Length -- feet

C. Works used to apply water to beneficial use:

The well serves a horse camp with 15-20 campsites, a shower house, 1 residence and livestock water (horses).

D. Compliance with Permit Requirements:

- 1) Permit qualifications being abided by: Yes,
- 2) Exceptions to compliance are: none

E. Condition and Location:

1. The system is in good condition with the point of diversion located as follows:
1,837' N and 2,170' W of the SE corner Section 3 T3N R4E (44.246833, -103.623050)
2. The works are capable of diverting and conveying to the place of use .053 cu. ft. per second (24 gpm) of water which is to be used for **commercial** use and the license should be issued for .053 cfs.
3. All structures, wells and lands on map: **No, only the well location.**

F. Comments or other permit(s) associated with the project: none



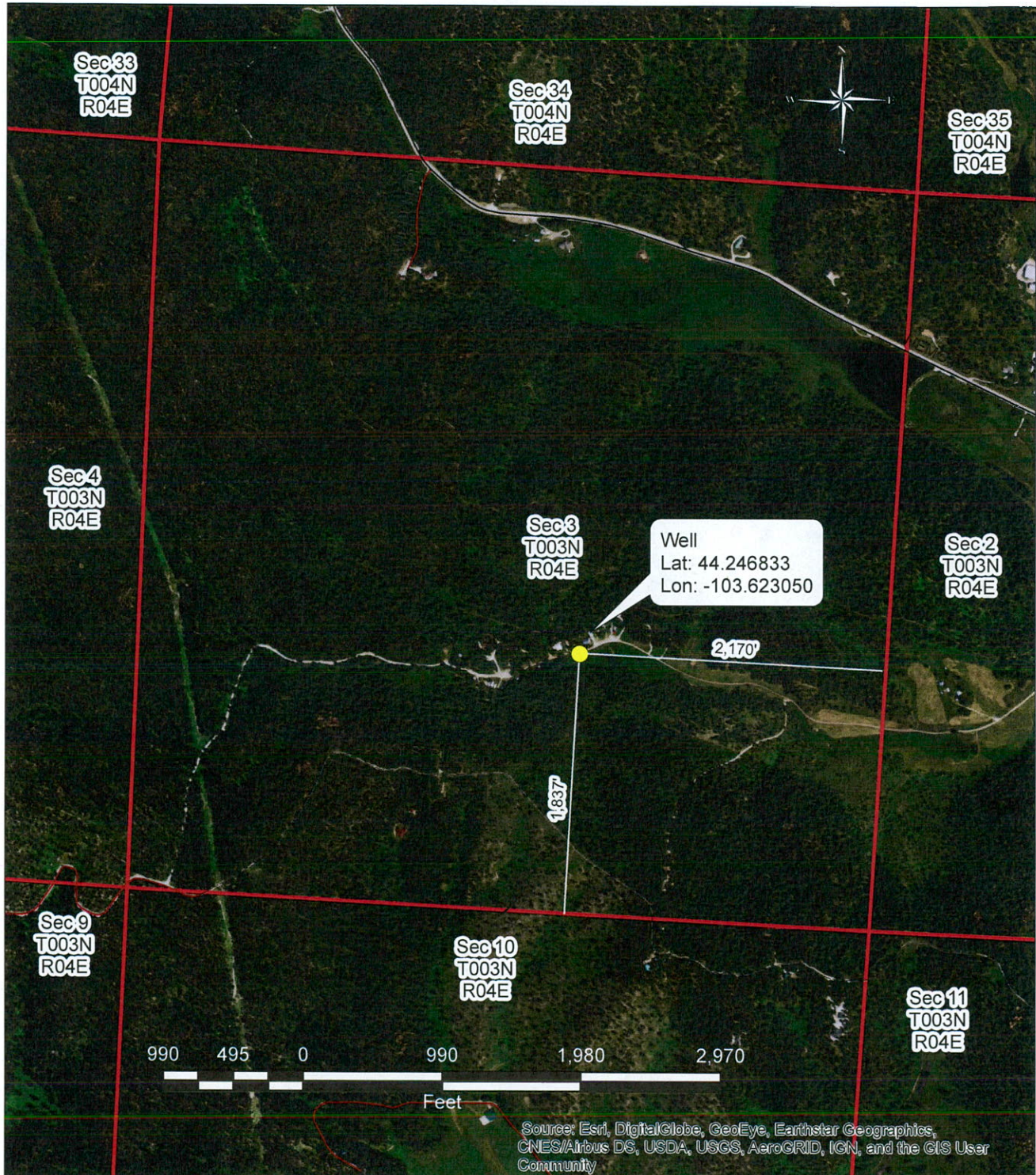
Steven Quissell
Water Rights Inspector
DENR, Water Rights Program

Date report completed: 10/26/2016



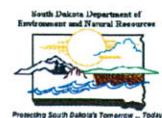
Hay Creek well with residence in background

Water Right #1864-1
Hay Creek Ranch
10/18/2016



Steven Quissell

Steven Quissell
Water Rights Inspector
DENR Water Rights Program





DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
<http://denr.sd.gov>

JAN 30 2017

1864-1

Doug Lindgren
Hay Creek Ranch
21765 Penny Lane
Nemo SD 57759

Dear Mr. Lindgren:

Enclosed is Water License No. 1864-1. This is the final water right document completing your process of obtaining a Water Right. Included with your license is a map prepared by the staff engineer who conducted the field investigation.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 1864-1, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water. If you have any questions, please contact our office.

Sincerely,

Jeanne Goodman, Chief Engineer
Water Rights Program
(605) 773-3352

enclosures

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1864-1

(1) Hay Creek Ranch, 21765 Penny Lane, Nemo SD 57759 made Application No. 1864-1, May 17, 2006 for a water permit to divert 0.067 cubic feet of water per second from ground water, one well (Precambrian Aged Crystalline Rock), Lawrence County, South Dakota for commercial and domestic purposes. Permit No. 1864-1, with a priority date of May 17, 2006 was approved March 7, 2007 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before March 7, 2012 and for the application to beneficial use of said water on or before March 7, 2016.

(2) It is certified that the permit holder has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to divert 0.053 cubic feet of water per second for beneficial use.

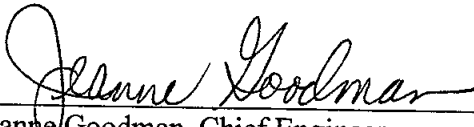
The location of the diversion point is 1,837 feet N and 2,170 feet W of the SE corner of Section 3, T3N, R4E (NW ¼ SE ¼)

(3) The permit holder has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Hay Creek Ranch, 21765 Penny Lane, Nemo SD 57759 the holder and/or owner of Water Right No. 1864-1 is issued a license to appropriate water, the right to use 0.053 cubic feet of water per second from ground water, one well (Precambrian Aged Crystalline Rock) with a priority date of May 17, 2006 from the location specified in (2) of this license for commercial and domestic purposes.

This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Right No. 1864-1 and subject to the following qualification:

- The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.


Jeanne Goodman, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

JAN 30 2017
date

